



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 14, 1998

Lieutenant Robert Dean
Criminal Investigation Division
McKinney Police Department
P.O. Box 517
McKinney, Texas 75069

OR98-0954

Dear Lieutenant Dean:

On behalf of the McKinney Police Department (the "department"), you ask whether photographs of an accident taken on January 30, 1998, are subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 115052.

Section 552.301 of the Government Code provides that a governmental body must ask the attorney general for a decision as to whether requested documents must be disclosed not later than the tenth business day after the date of receiving the written request. The department received the requestor's written request for information on February 5, 1998. You did not request a decision from this office until February 24, 1998, more than ten business days after the requestor's written request. Therefore, we conclude that the department failed to meet its ten-day deadline for requesting an opinion from this office.

When a governmental body fails to request a decision within ten business days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.* Normally, a compelling interest is that some other source of law makes the information confidential or that third party interests are at stake. Open Records Decision No. 150 (1977) at 2.

In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID# 115052

cc: Mr. Fernando L. Martinez
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